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C.F. 10-3

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 107/2001

PETITIONER: Shri Bheshaj Kumar Tiwari, S/o Late Murali Manohar Tiwari aged 43 years, R/o Old Irrigation Colony, Tehsil & Distt. Janjgir.

VERSUS

RESPONDENTS:

1. State of Chhattisgarh, Through the Collector, Janjgir Champa
2. The Competent Authority (M.P.Lok Parisar Bedakhali Adhiniyam, 1974)/ Sub-Divisional Officer, Janjgir
3. Tehsildar, Janjgir
4. Patwari, Janjgir

P. R. No. 12721/01 Presented by Shri K.M. Nagarshi Tiwari dated 23.3.01

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(40)

आदेश पत्रक

Writ Petition No. 1207/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	21/9/2001	

Heard Shri Utkarsh Verma, learned counsel for the petitioner and Shri Deep Kesharwani, learned PL for State.

O R D E R

The petitioner was allotted a Government Quarter about 6 years ago. The writ petitioner is a Clerk serving in the Irrigation Department. After six years of occupation of the said building allotted to him by the Competent Authority, the writ petitioner was sought to be evicted from the said quarter on the ground that he owns his private residence at Janjgir. According to Shri Deep Kesharwani, some enquiry was made by Patwari and according to the enquiry report available in the Court below, the petitioner owns a private residence. On the other hand, Ex.P/6 - the certificate issued by the Municipal Council dated 2/3/2001 certifies that the writ petitioner does not own any house in that area. It appears that these two certificates can not both be true.

On 31/7/2001 learned Government Advocate was allowed to obtain instructions and the matter was to be listed on 14/8/2001 for consideration. It was ordered that status quo as regards the building in question should be maintained until

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आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the next date of hearing. On 16/8/2001 the matter was again adjourned on 23/8/2001 and the interim order was to continue. On 28/8/2001 also it was ordered that the interim order would continue till the next date of hearing.

The factual position of the house in question is that though the writ petitioner is not at the moment occupying as he was evicted by locking the doors of the house, but personal goods belonging to the writ petitioner are still kept inside the house. In my view the need of accommodation is acute everywhere. No Government quarter may be kept unoccupied. At the same time, in view of the two documents I have referred to above, clearly there is a dispute as to whether the petitioner owns private residential building at Janjgir. This fact must be properly enquired into by the Competent Authority and only when it is found conclusively that the petitioner has indeed his private residence, the Competent Authority can take appropriate action as regards the entitlement of the writ petitioner.

I, therefore, direct that the Competent Officer should enquire into the matter and pass necessary order. Let the Collector do the needful. It is contended by learned counsel for the petitioner that in fact even assuming the petitioner has his private residence he can only be charged rent and there is no law by which he could have been evicted on the ground that he owns his private

GRPRJ—FS/311—1/2001—50,000.

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

41

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

house. It is for the Competent Authority to decide the matter on merit and by speaking order. Let it be done as early as possible preferably within 3 weeks from the date of receipt of this order. Since it is not disputed so far that personal goods belonging to the petitioner are still lying inside the quarter in question, in my view, even on humanitarian grounds the petitioner should be allowed to stay in the house instead of keeping it un-occupied until further orders by the Competent Authority.

Let the doors which have been locked be opened by the Competent Authority immediately on receipt of this order and let the writ petitioner enter into the said house and continue to stay there until the matter is finally disposed of by the Competent Authority.

With these aforesaid observations and directions, the petition is disposed of.

Sd/-
Chief Justice

rsnr*

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